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OFFICE OF PETITIONS

In re Application of :
Kenneth W. McLean et al. :
Application No. 10/822,465 : DECISION ON PETITION
Filed: April 12, 2004 :
Attorney Docket No.: :
15164 :
Title: INDEPENDENT HYDRAULIC :
HEADER LIFT AND FLOTATION SYSTEM :

This is a decision on the petition filed October 12, 2004, requesting that the above-identified application, including pages 2 and 5 of the specification, be accorded a filing date of April 12, 2004 as part of the original disclosure.

The application was deposited on April 12, 2004. However, on August 11, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice), stating that the application had been accorded a filing date, and advising applicants that pages 2 and 5 of the specification appeared to have been omitted. The notice set a two-month period of reply.

In response, on October 12, 2004, applicants filed the present petition. The petition is further accompanied by a copy of pages 2 and 5 of the specification, along with a copy of applicants' postcard receipt acknowledging receipt of "Specification (13 Pages)" in the United States Patent and Trademark Office (Office) on April 12, 2004. Applicants request that pages 2 and 5 of the specification be accorded a filing date of April 12, 2004.

It is noted that 5 pages of specification, 5 pages of claims, and a 1 page abstract have been located in the electronic file.

Upon review of the record, the above-mentioned pages have not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 12, 2004

included pages 2 and 5 of the specification, and these sheets were subsequently misplaced in the Office.

Therefore, the application, including pages 2 and 5 of the specification, was complete on filing and entitled to a filing date of April 12, 2004 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed August 11, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the \$130.00 petition fee will be refunded to Petitioner's Deposit Account.

The application file is being returned to OIPE for further processing with a filing date of April 12, 2004, using the original application papers filed on that date, as well as pages 2 and 5 of the specification submitted on April 12, 2004, and for noting in Office records that these 2 sheets were present on filing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.



Paul Shanowski
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United States Patent and Trademark Office